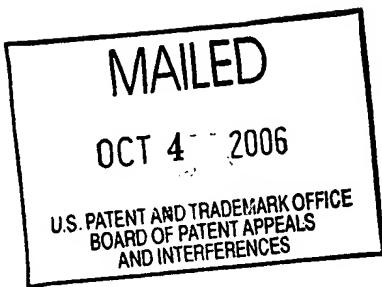


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte ROBERT J. GARABEDIAN, AMY C. KELLY  
and STEVEN K. LANDREVILLE

Application 10/606,250

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on September 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Examiner's Answer mailed on April 13, 2006, stated under the Evidence Relied Upon section, page 2, that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that prior art was

Application 10/606,250

applied to the statement of rejection in the Grounds of Rejection section, page 3, of the Examiner's Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

(8) Evidence Relied Upon. The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

Before further review, the examiner must submit a corrected examiner's answer that will include the references under the "Evidence Relied Upon" heading.

Further, the following required sections are missing from the Appeal Brief filed on March 23, 2006:

(1) "**EVIDENCE APPENDIX**," as set forth in 37 CFR § 41.37(c)(1)(ix);

and

(2) "**RELATED PROCEEDINGS APPENDIX**" as set forth in 37

CFR § 41.37(c)(1)(x).

A Supplemental Appeal Brief that is in compliance with 37 CFR § 41.37(c)(1)(ix) and 37 CFR § 41.37(c)(1)(x) is required.

Accordingly, it is

**ORDERED** that the application is being electronically returned to the Examiner:

- 1) to vacate the Examiner's Answer and issue a revised Examiner's Answer having the missing references listed under "Evidence Relied Upon" heading;
- 2) to have Appellants submit a Supplemental Appeal Brief that is in compliance with 37 CFR § 41.37(c)(1)(ix) and 37 CFR § 41.37(c)(1)(x); and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: G.P. Egger for Dale Shaw  
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